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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
GTE Telephone Operating Companies) CC Docket No. 92-141
Tariff F.C.C. No. 1) Transmittal No. 711

ASSOCIATION FOR LOCAL TELECOMMUNICATIONS
SERVICES EX PARTE FILING

The Association for Local Telecommunications Services ("ALTS"), by its undersigned counsel and pursuant to § 1.1206(a)(1) of the Commission's Rules, hereby respectfully submits an original and two copies of its written ex parte filing in the above-captioned proceeding.

ALTS is compelled to respond to several statements made by GTE in its Reply, filed in the instant proceeding on August 24. As ALTS discusses below, GTE fails adequately to respond to ALTS' showing that the rates proposed by GTE in Transmittal No. 711 recover average variable cost ("AVC"). This filing is submitted for the limited purpose of addressing inaccuracies in the GTE Reply and identifying specific instances in the Reply in which GTE admits that it has failed to identify or include relevant costs in its AVC showing. As ALTS discusses below, such exclusions from the GTE cost showing render GTE's direct case fundamentally flawed and incapable of demonstrating recovery of AVC. As such, the filing must be rejected.

GTE argues that many of the missing cost elements identified by ALTS are in fact included in the data submitted in GTE's direct case, but are included in aggregated numbers rather

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than stated separately. In an attempt to support this argument, GTE provides "illustrative" cost sheets that list hypothetical cost data. GTE argues that such data is proprietary, and so cannot be disclosed. (Reply at 4-5.)

ALTS finds GTE's argument to be nothing less than an outrageous evasion of the Commission's explicit directive to provide detailed cost data.^{1/} GTE initially attempted to withhold relevant cost data on the grounds that it was proprietary. After consulting with the Commission Staff, it made such data available to ALTS upon execution of a nondisclosure agreement. GTE's attempt to raise this argument anew in the context of its Reply as a post hoc rationalization for excluding relevant costs from its Direct Case clearly renders the cost support noncompliant with the Commission's Order.

Moreover, GTE's position calls upon the Commission to accept without evidence GTE's assertion that the cost data submitted in the Direct Case actually include the undisclosed costs. GTE, in essence, is attempting to dismiss ALTS' arguments that it has excluded significant cost data with an unsupported assertion that "it's in there," but need not be identified. This cynical and transparent attempt to circumvent scrutiny of its cost data cannot be tolerated if the Commission's AVC test is to retain any credibility as an instrument for ensuring just and reasonable rates.

^{1/} 1992 Annual Access Filings, CC Docket No. 92-141, DA 92-841, released June 22, 1992, at para. 16.

GTE's arguments concerning specific cost categories similarly illustrate the shortcomings of its Direct Case. GTE argues that several cost categories identified by ALTS are fixed costs, and so are properly excluded from the cost support data. These elements include portable test equipment (Reply at 7) and sales and marketing (Reply at 10). In these cases, GTE argues that existing testing equipment is used to test embedded plant, and that marketing expenses are "insensitive to volume," and so their related costs should be treated as fixed.

GTE's arguments are unrealistic. Carriers -- LECs and CAPs alike -- must purchase testing equipment in direct proportion to increased investment in their transport facilities. Similarly, it is self-evident that, as demand for services increases, additional sales and marketing personnel are hired to process the increasing volume of orders and customer contacts. In fact, marketing expenses have been widely acknowledged as incremental costs by the federal courts, by the Commission, and by the LECs themselves.^{2/} Failure to acknowledge the incremental nature of these marketing and testing equipment costs

^{2/} Illinois Bell Telephone Co. v. FCC, 883 F.2d 104, 110 (D.C. Cir., 1989) (discussing the incremental cost of CPE and Centrex marketing in a sales package that includes regulated and unregulated services); Morgan v. Ponder, 892 F.2d 1355, 1362 & n.17 (8th Cir., 1989) (citing 3 P. Areeda & D. Turner, Antitrust Law ¶ 719); Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, 2 FCC Rcd 1298, 1323 (1987) (citing comments of Ameritech identifying marketing costs as incremental); Procedures for Implementing and Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), 95 F.C.C.2d 1276, 1305 (1983) (citing comments of AT&T identifying marketing costs as incremental).

will result in their allocation entirely to monopoly services -- a result that understates GTE's cost of providing competitive service and inflates the rates borne by captive ratepayers of monopoly services.

GTE fully acknowledges that it has excluded certain costs related to its switched access services. GTE notes that its Direct Case fails to include order processing costs, although it argues that these costs are "de minimis" and so need not be included. (Reply at 10.) Similarly, GTE states that the costs associated with repeaters are reflected only in the one operating territory -- GTE Southwest. GTE defends this selective allocation of repeater costs on the grounds that its cost studies show that on average, circuits of sufficient length to require repeaters are limited to that territory. (Reply at 8.)

GTE offers no data to support either of these costing decisions. Regarding order processing, in lieu of cost support, GTE demands that the Commission accept without proof its assertion that the incremental costs of billing and collection for switched transport services are de minimis. This cavalier dismissal of a relevant cost item obviously is inadequate, and fails to meet the AVC standards established by the Commission.

Regarding the costs of repeaters, GTE does not assert that repeater costs are not incurred in its California, Florida or Oregon/Washington service areas. Rather, it states that, on average, only the Southwest area contains average lengths of haul that require repeaters. This evasive line of reasoning appears

to be a tacit admission that repeaters are employed for switched transport circuits in GTE's other service areas, and that the costs associated with such repeaters have been excluded from the GTE cost showing.

GTE therefore appears to admit that the cost data submitted in its Direct Case do not include the incremental costs of order processing and repeaters. As such, the cost showing made in support of Transmittal No. 711 fails to comply with the Commission's explicit directives governing the investigation of the GTE rates and compels rejection of the proposed below-band filing. Moreover, because the proposed rates for Florida are set at AVC, the exclusion of any incremental cost will necessarily bring those rates below AVC. Because relevant costs have admittedly been excluded from GTE's pricing data, the proposed switched transport rates for Florida fail the Commission's AVC test, and require rejection of the GTE filing.

GTE also fails to provide a rational explanation for its failure to account for the costs of spare equipment in setting its prices for switched transport. GTE argues that "[s]pare capacity is accounted for in part through the 90 percent circuit equipment and 75 percent outside plant utilization factors." (Reply at 7, emphasis added.) GTE further contends that such costs are reflected in maintenance or depreciation accounts as the spare equipment is placed in service.

First, GTE confuses the costs associated with spare equipment with unused capacity in its transmission plant. GTE's

assertion that the 90 and 75 percent loading factors (or plant utilization factors) account for spare equipment is ludicrous. The loading factors are employed as a measure for demand used to determine the amount of necessary plant in service and to compute per-unit prices after costs have been determined. As GTE explains in its Direct Case, the 90 and 75 percent factors reflect the reality that its transport plant is not in use 60 minutes an hour, 24 hours a day. Because it is unrealistic to assume 100 percent use of plant, GTE -- like other LECs and CAPs -- must design its network to provide some level of capacity in excess of its demand projections. This "spare capacity" therefore reflects network usage, and has nothing to do with spare equipment.

Spare equipment is simply the duplicate multiplexers, repeaters, cable, test equipment and similar plant that must be kept on hand in case equipment that is in service breaks down. All carriers warehouse such spare equipment in order to effect speedy repairs when necessary. These costs are incurred when the spare equipment is purchased and warehoused, not when the equipment is placed in service. Indeed, when spare equipment is placed in service, additional spares must be purchased in order to provide the necessary backup. Under the Uniform System of Accounts established in Part 32 of the Commission's Rules,^{3/} LECs are required to account for the costs of materials and supplies held in inventory in subaccount 1220.1. Thus, under the

^{3/} 47 C.F.R. § 32.

Commission's accounting rules, the cost of spare equipment is by definition separate and distinct from plant in service, and must be accounted for as the expense is incurred. GTE's attempt to explain the absence of cost data reflecting spare equipment is therefore at odds with accepted accounting practice, and so must be rejected.^{4/}

Finally, GTE fails adequately to respond to ALTS' argument that GTE's proposed rates for switched transport fail to recover the costs associated with access tandems because these costs are allocated entirely to switched transport termination, instead of switched transport facility. GTE attempts to evade this argument by stating that Part 69 of the Commission's Rules does not specifically require such an allocation. This argument is wholly irrelevant, however. The issue in the instant proceeding is whether GTE's proposed below-band rates for switched transport recover all relevant average variable costs. GTE does not contest the ALTS argument that GTE's switched transport rates fail to recover the costs of tandem switches that are an integral part of the service. These rates must, therefore, be found to fail the Commission's AVC test.

^{4/} In addition, even if the Commission finds that GTE's method of accounting for spare equipment cost is reasonable -- and ALTS contends that it is not -- GTE's Reply acknowledges that these methods only account for the costs of spare capacity "in part." (Reply at 7.) GTE appears to concede, therefore, that costs associated with spare equipment have been excluded from its cost showing. Such exclusion renders the filing inherently flawed, and merits rejection.

For the reasons stated above, the GTE proposed below-band rates for switched transport are patently in violation of the AVC test established in the Commission's Price Cap rules. As such, they must be rejected.

Respectfully submitted,

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Dated: September 30, 1992

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September 1992, copies of the aforementioned ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES EX PARTE FILING were sent via hand-delivery to the following:

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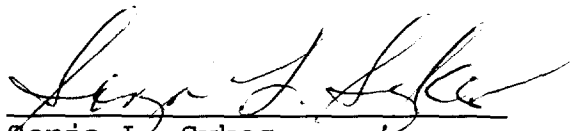
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